IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.21924 OF 2004

Shri Sayaji Fula Barde & Ors. ...Petitioners

Versus

State of Maharashtra & Ors. ...Respondents

.....

Mr.Uday Warunjikar for Petitioners.

Mr.M.M.Sathaye for Respondents 2 to 17.

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CORAM: A.M.KHANWILKAR, J.

AUGUST 18, 2004.

P.C.

1. Heard Counsel appearing for the parties.

2. I see no reason to interfere with the view expressed by the Court below in rejecting the application preferred by the Petitioners for intervention in the claim proceedings. The Court below has recorded good reasons for rejecting the application preferred by the Petitioners, as can be

discerned from paragraphs 8 to 14 of the impugned Judgment. It is seen that the Petitioners had approached this Court by way of Writ Petition being Writ Petition No.3292 of 1994, which was disposed of by order dated 6th March 1995 by directing the Collector to make enquiries with regard to the claim set-up by the Petitioners. Pursuant to the said directions, the Collector, after due enquiry, proceeded to pass order in November 1995, rejecting the claim of the Petitioners for having failed to establish that they were heirs of the original Inamdar. It is not in dispute that the said decision has become final and was never challenged by the Petitioners.

3. Indeed, the Petitioners later on filed succession certificate before the Civil Judge, Senior Division, and which is stated to be pending. The fact remains that the order passed by the Collector against the Petitioners has not been challenged nor any order was passed in favour of the Petitioners that the present claim proceedings were subject to the claim of the Petitioners herein. Whereas, the present claim proceedings are

between the contesting private Respondents who claim to be the heirs of Inamdars. The private contesting Respondents would succeed in their claim only upon establishing the fact that they are heirs of erstwhile Inamdar. There is substance in the argument canvassed on behalf of the private contesting Respondents that the Petitioners have filed the present Application for intervention taking clue from the observations in the order passed by the Division Bench on December 15, 2003 while disposing of several Civil Applications which were filed by them and not the Petitioners herein. The Petitioners were not parties to the said Applications or the Writ Petitions, which were pending before this Court. The Petitioners, therefore, cannot take advantage of the observations made in the said order. So long as the Petitioners have not challenged the order passed in November 1995 and that has attained finality, the claim of the Petitioners as interveners in the claim proceedings instituted by the private contesting Respondents, cannot be maintained.

4. Viewed in this perspective, no fault can be found with the approach of the Court below in rejecting the application for the reasons recorded in the impugned Judgment. Hence, dismissed.

5. It is, however, made clear that the present claim proceedings pending at the instance of the private contesting Respondents will proceed on its own merits and the decisions passed thereon will be subject to such other or further orders to be passed by the Court of competent jurisdiction.

A.M.KHANWILKAR, J.